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Mauricio J. Tamargo,
Chairman.

[FR Doc. E8-20879 Filed 9-4-08; 4:15 pm]

BILLING CODE 4410-01-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-63,448]

Prestolite Wire LLC, Including On-Site Leased Workers From Talent Tree, Tifton, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on June 10, 2008, applicable to workers of Prestolite Wire LLC, including on-site leased workers of Talent Tree, Tifton, Georgia. The notice was published in the **Federal Register** on June 27, 2008 (73 FR 36575).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of automotive ignition wire assemblies.

Findings show that there was a previous certification, TA-W-59,531, issued on July 13, 2006, for the workers of Prestolite Wire LLC, Tifton, Georgia. That certification expired on July 13, 2008. To avoid an overlap in worker group coverage for the workers of the Tifton, Georgia location, the certification is being amended to change the impact date from May 29, 2007 to July 14, 2008.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Prestolite Wire LLC who were adversely affected by a shift in production of

automotive ignition wire assemblies to Mexico.

The amended notice applicable to TA-W-63,448 is hereby issued as follows:

All workers of Prestolite Wire LLC, including on-site leased workers from Talent Tree, Tifton, Georgia, who became totally or partially separated from employment on or after July 14, 2008, through June 10, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of August 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-20690 Filed 9-5-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-54,455]

Weirton Steel Corporation, Weirton, WV; Negative Determination on Remand

On April 30, 2008, the U.S. Court of International Trade (USCIT) remanded *United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 2911 v. United States Secretary of Labor*, Court No. 04-00492, to the U.S. Department of Labor (Department) for further investigation.

On March 9, 2004, an official of Weirton Steel Corporation (subject firm) filed a petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers of Weirton Steel Corporation, Weirton, West Virginia (subject facility). AR 2. Workers at the subject facility produce hot-rolled, cold-rolled, tin-plate and hot-dipped, and electrolytic galvanized steel. AR 2, 48. The workers are not separately identifiable by specific product. AR 48.

On April 23, 2002, workers at Weirton Steel Corporation, Weirton, West Virginia were certified eligible to apply for TAA (TA-W-39,657; certification was issued on April 23, 2002 and expired on April 23, 2004). SAR 18.

The initial investigation revealed that the subject firm neither imported steel products nor shifted steel production to a foreign country in the one year prior to the petition date (March 9, 2003 through March 9, 2004). AR 102. The

initial investigation also revealed that although subject firm production declined in 2003 from 2002 levels and declined during January through February 2004 compared with the corresponding period in 2003, subject firm sales increased in 2003 compared with 2002, and increased in January through February 2004 compared with the corresponding period in 2003. AR 102.

The Department surveyed fifteen of the subject firm's major declining customers regarding their purchases of the principal product types of steel sold by the subject firm in 2002, 2003, January through March 2003, and January through March 2004. The majority of respondents reported either no imports or declining imports. The survey also revealed that for those customers that did increase import purchases, the imports were substantially less than one percent of the subject firm's sales or production. AR 102.

Aggregate data of the major steel products manufactured by the subject facility during the relevant period (hot-rolled carbon sheet, cold-rolled carbon sheet, hot-dipped galvanized sheet and strip, galvanized electrolytic carbon sheet and strip, and tin mill products) indicated that imports of these products declined, both absolutely and relative to shipments, in 2003 compared with 2002, and continued to decline in the first quarter of 2004 compared with the corresponding period of 2003. AR 102.

The Department's negative determination regarding the subject workers' eligibility to apply for worker adjustment assistance was issued on May 14, 2004. AR 103. The Department's Notice of determination was published in the **Federal Register** on June 2, 2004 (69 FR 31135). AR 104.

By letter dated June 18, 2004, the Independent Steelworkers Union (ISU), via their counsel, requested administrative reconsideration of the Department's negative determination applicable to the subject workers. AR 119. The ISU requested that the investigation period be extended in order to include information regarding subject firm sales declines and import impact that were the basis for an expired TAA certification (TA-W-39,657; certified on April 23, 2002). AR 119-194.

The Notice of Negative Determination Regarding Application for Reconsideration (issued on July 23, 2004) stated that information on events that occurred before the relevant period cannot be the basis for TAA certification in the immediate case. AR 195. The Department's Notice of determination

was published in the **Federal Register** on August 4, 2004 (69 FR 47184). AR 198.

By letter dated September 14, 2004, the Independent Steelworkers Union (ISU) requested that the expired certification for TA-W-39,657 be amended to include workers separated from the subject facility after the end of the original certification period (April 23, 2004). SAR 12.

The request for amendment stated that, on May 18, 2004, "substantially all of the production assets of Weirton Steel Corporation were acquired out of bankruptcy by International Steel Group, Inc. (ISG)" and "Weirton ceased to exist as a producer of steel and several hundred additional employees were permanently separated from the company." SAR 13. The letter asserts that the intent of the request is to provide TAA eligibility to those workers who stayed with the subject firm after the expiration of the certification in order to effectuate the sale of assets, which took place on May 18, 2004. SAR 12. In support of the request, the ISU cited two cases in which the Department extended the certification date (*O/Z-Gedney Co.*, Division of EGS Electrical Group, Terrytown, Connecticut; TA-W-38,569 and *Wiegand Appliance Division, Emerson Electric Company*, Vernon, Alabama; TA-W-39,436). SAR 14.

On September 24, 2004, the Department issued a letter in which the Plaintiff was notified that its request had been denied. The letter explained that the Department extends the certification period, before it expires, in those cases where workers were retained beyond the certification period in order to assist with the closure of the facility after production had ceased. The Department's letter stated:

You referred to two trade petition certifications where the expiration dates were extended, specifically, *O/Z Gedney Company*, Division of EGS Electrical Group, Terryville, Connecticut (TA-W-38,569) and *Wiegand Appliance Division, Emerson Electric Company*, Vernon, Alabama (TA-W-39,436). In each of these cases, workers were retained to assist with the plant closure after production had ceased. That is not the case for workers at Weirton Steel. Production of steel products at the Weirton, West Virginia plant continued during the period relevant to the investigation.

SAR 16-17.

By letter to the USCIT, dated October 1, 2004, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 2911 (Plaintiff) sought judicial review of

the July 23, 2004 determination denying reconsideration in this matter.

The complaint stated that the Plaintiff's challenges are "(1) the final determination in the investigation regarding certification of eligibility of former employees of Weirton Steel Corporation, Weirton, West Virginia, to apply for worker adjustment assistance, Case No. TA-W-54,455, and (2) the final negative determination in response to a request for an amendment of the certification in Case No. TA-W-39,657 to extend the expiration date of that certification from April 23, 2004 to May 18, 2004, so as to guarantee eligibility for all former employees of Weirton Steel who were adversely affected by increased imports."

Plaintiff's first claim is that "the Department's use of a one-year 'representative base period' in this case ignored the reality that in certain industries, such as steel, there was the possibility or even the likelihood of a lag time of more than one or two years between import surges and workers separations."

Plaintiff's second claim is that the Department has much discretion as to how it gathers and analyzes information in determining whether increased imports contributed importantly to worker separations, and that regulations should not be construed as a "bar to a more expansive inquiry where there are compelling reasons for a broader examination."

Plaintiff's third claim is that the Department is not precluded by the statute or the regulation from considering "only imports during the two years prior to the date of the petition, or during any particular period of time."

Plaintiff's fourth claim is that while amendments are absent in both the statute and the regulation, the Department has not supported its decision (to not extend the certification period to May 18, 2004) with substantial evidence and has failed to reconcile the decision with other cases where requests for amendments to extend the period of certification were granted.

The Department filed its administrative record with the USCIT supporting its decision. On November 17, 2006, the USCIT issued its opinion which sustained the Department's negative determination applicable to TA-W-54,455. The USCIT also stated that it possessed jurisdiction to review the Department's decision not to grant the request to extend the certification of TA-W-39,657 and that it was reserving judgment pending the Department's submission of additional documentation related to the amendment request. The

court remanded the case to the Department "with instructions to assemble and submit to the court the administrative record regarding plaintiff's amendment claim." Slip. Op. at 31. On January 27, 2007, the Department filed a supplemental administrative record with the USCIT in accordance with that order.

In its April 30, 2008 remand order, the Court considered the Department's decision, in addition to the Department's supplemental administrative record, which refused to extend the prior determination and remanded the matter to the Department for it to provide a fuller explanation of its refusal to extend the certification. The USCIT, in its order, directed the Department to: (1) Clarify the basis of and to fully explain any decision it reaches; (2) establish the facts upon which it makes its determination and state precisely why it is, or is not, significant that the Weirton plant did not close; (3) clearly explain why, if at all, the Weirton workers who lost their jobs after April 23, 2004, should be treated differently than those who lost their jobs prior to that date; (4) set forth its current and past policy regarding amendments to the expiration date of certifications; (5) explain how the case at hand is different, if at all, from previous cases where it extended worker certifications; (6) set forth all steps, if any, taken to change its policy with respect to extensions, including any measures taken to notify the public, and the dates on which all such steps were undertaken; (7) set forth the criteria upon which it makes any determination to extend or not to extend the subject certification; and (8) explain why its determination is in accord with the remedial nature of the TAA statute.

In order to better explain the Department's determination, the Department has addressed the USCIT's concerns in a different order than above and has included facts relevant to TA-W-39,657 as well as the history of the administration of the Trade program.

Relevant Facts of TA-W-39,657

On April 23, 2002, the Department issued a certification applicable to workers and former workers of Weirton Steel Corporation, Weirton, West Virginia (TA-W-39,657) who produced hot and cold rolled coated carbon steel. The certification was based on the finding that, during the relative period, sales, production, and employment at the subject firm decreased while "U.S. aggregate imports of cold-rolled carbon steel sheet increased both absolutely and relative to domestic shipments" during the relative period. SAR 18-19.

In May 2003, Weirton filed for bankruptcy. AR 122, SAR 13. During this bankruptcy proceeding, Weirton agreed to sell to ISG (a competitor) its assets, including steel production equipment at the Weirton, West Virginia location. SAR 13. During the transition period between the bankruptcy filing and the sale of its assets to ISG, over three hundred workers employed by Weirton, AR 2, 46, 50, 96, continued to produce steel at the Weirton, West Virginia facility. AR 49–50, SAR 13–14. After the sale took place, on May 18, 2004, ISG took over production at the Weirton, West Virginia facility and Weirton separated the workers remaining at the West Virginia facility. SAR 13–14.

Applicable Authorities

Under Section 222(a) of the Trade Act of 1974, as amended, a worker group is adversely-affected by increased imports if (1) A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; (2) the sales and/or production of such firm or subdivision have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision. This is codified in 29 CFR 90.16.

Under section 223(d) of the Trade Act, the Secretary is authorized to terminate a certification "[w]henver the Secretary determines * * * that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222." This is codified in 29 CFR 90.17.

Under Section 231 of the Trade Act, payment of a Trade Readjustment Allowance (TRA) shall be made to an adversely affected worker covered by a certification under conditions including that the worker's separation occurred on or after the beginning date of the certification and "before the expiration of the two-year period beginning on the date on which the determination * * * was made" or an earlier date if the Department terminates the certification prior to the end of that period. This is codified in 20 CFR 617.11.

The TAA Certification Period

Historically, the Department issued certifications that did not expire until two years after the issuance of the certification; however, if the facts of a case indicated that worker separations

would conclude on a date earlier than two years from the date of the certification (such as in a plant closure), the Department would issue a certification that contained a termination date that corresponded to the latest date that, based on the information provided by the company, the Department determined that workers' separations could be attributable to the basis for the certification.

Applying the statutory guidance in section 223(d) of the Trade Act, where the facts of a case indicate that the worker separations will conclude earlier than the 2-year expiration of the certification, the Department has terminated certifications, which resulted in certifications with a shorter eligibility period than the "2-year expiration date."

Section 231 of the Trade Act provides that payment of a Trade Readjustment Allowance (TRA), which is the largest benefit available under the Trade Act, shall be made to an adversely affected worker covered by a certification if the worker's separation occurred on or after the beginning date of the certification and "before the expiration of the two-year period beginning on the date on which the determination * * * was made" or an earlier date if the Department terminates the certification prior to the end of that period. Utilizing the 2-year expiration date in certifications is consistent with this section of the Trade Act.

As the TAA program evolved, the Department addressed the issue of termination of the certification period in Unemployment Insurance Program Letter 28–80 (April 9, 1980). This guidance to state agencies that determine individual eligibility for TAA benefits states that a certification which is amended to add new groups of workers, which could have been included in the original certification, should not extend the two-year period of the certification.

Currently, the Department continues to issue certifications that do not expire until two years after the date of the determination and does not monitor certified worker groups to ascertain whether the worker separations are attributable to the basis for certification.

The Department's Current Policy Regarding Amendments to the Expiration Date of Certifications

As stated in all amendment determinations, the intent of the Department is for the certification to cover all workers of the subject firm or appropriate subdivision who were adversely affected by increased imports

of the article produced by the firm or a shift in production of the article, based on the investigation of the petition.

Neither the statute nor the regulation addresses whether the Department may amend certifications or how to process requests for amendments, although section 223(d) of the Trade Act and 29 CFR 90.17 authorize the Department to terminate certifications if, after an investigation, the Department believes that worker separations are "no longer attributable to the conditions specified in section 222 of the Trade Act and 29 CFR 90.16(b)." However, in implementing its authority to certify all adversely affected workers, the Department has and continues to amend the expiration date of certifications when the facts of the case show that the later worker separations are attributable to the basis for certification (the increased imports or shift of production to a foreign country).

Because terminating a certification denies a previously-eligible worker group's access to an entitlement program, the Department believes that using a standard for amending a certification to include a previously-excluded worker group that is identical to the approved standard for terminating a certification adequately safeguards the interests of the worker group and is in line with the remedial nature of the Trade Act. Therefore, requests to amend certification to extend the expiration period are granted in cases where the Department determines that the worker separations are "attributable" to the basis for the earlier certification.

The Department's policy is reflected in its determination in Thomson, Inc., Circleville, Ohio, TA–W–59,118. SAR 22–23. In *Thomson*, workers alleged that they were part of the worker group certified under TA–W–52,274, issued on August 7, 2003. Thomson continued to employ several workers at the subject facility after August 7, 2005, the expiration date that certification, although production had ceased when the plant closed on June 25, 2004. The Department explained in the determination that "the workers who continued their employment with the subject firm to * * * complete shutdown functions are part of the worker group covered by TA–W–52,274." The basis for the determination was the Department's finding of "the causal nexus between the subject facility's closure and the workers' separations."

The amended certification of TA–W–52,274 (issued January 25 2007) stated "during the ensuing remand process for TA–W–59,118, the Department

determined that there was a causal nexus between the subject firm's shutdown of operations and the shutdown workers' separations and that, therefore, the separations of the workers * * * are attributable to the conditions specified in section 222 of the Trade Act." SAR 22-23.

The Department's Past Policy Regarding Amendments to the Expiration Date of Certification

There has been no change in the Department's policy as to situations such as the one presented in this case. While the Department anticipated a change in its policy to extend the expiration date of a certification beyond two years, that policy has not changed, as shown by the Thomson certification. The Department has not, to the best of our knowledge, amended a certification to extend the expiration date except in limited circumstances when there has been a plant closing and a small number of workers are retained past the 2-year expiration date to complete shutdown activities. The intent of the Department in these cases, as in all cases, is for the amended certification to cover all adversely affected workers at the subject firm or appropriate subdivision (based on the investigation of the petition).

The Department's Steps To Change Policy Regarding Certification Extensions and To Notify the Public of Policy Changes

The Department has not taken any steps to notify the public of any change in policy because there has been no policy change. The Department had intended to amend its certification regulations, as reported in the Department's regulatory agenda, but Congressional action has barred agency action on such regulations. See Section 110 of Division G of Public Law 110-161 (Consolidated Appropriations Act, 2008), which states:

SEC. 110. None of the funds made available in this or any other Act shall be available to finalize or implement any proposed regulation under the Workforce Investment Act of 1998, Wagner-Peyser Act of 1933, or the Trade Adjustment Assistance Reform Act of 2002 until such time as legislation reauthorizing the Workforce Investment Act of 1998 and the Trade Adjustment Assistance Reform Act of 2002 is enacted.

As a result of this prohibition, the Department has been unable to notify the public of any proposal regarding procedures on group eligibility terminations, including procedures on amendments to certifications, and no regulatory change has taken place. The Department shall, however, notify the

public of any regulatory proposal and seek public comments on the draft regulations once permissible.

Criteria for Extending Worker Group Certification Period

Requests for an amendment to extend the period of a certification are rare. However, in response to each request for such an amendment to a certification, the Department reviews the facts of the case and determines whether or not it has been demonstrated that the worker separations that occurred after the expiration date of the certification has expired are also "attributable" to the basis for that certification. As stated in *Thomson*, the Department must determine that workers separated after the certification expired are appropriately part of the worker group covered by the certification. As such, the earlier and later separated workers must have identical characteristics (same location, same article, and same basis for certification) aside from dates of separation. It must also be shown that the predominant important cause of the later worker separations is identical to the conditions that were the basis for the certification of the earlier separated workers.

If the certification was based on increased imports, the petitioning worker group must show that the increased imports (same article, same time periods, etc.) contributed importantly to their separations; if the certification was based on a shift of production, the petitioning worker group must show that the same shift of production (same article, same country, etc.) was the basis for their separations.

The Significance of the Lack of Closure of the Weirton Plant

When considering whether or not to grant the request to extend the certification period of TA-W-39,657, the Department must determine whether worker separations after April 23, 2004 are attributable to the increased imports that were the basis of the certification of TA-W-39,657. If it is demonstrated that the contributing cause of the worker separations at issue is not the increased imports that were the basis of the certification, amending the certification is not appropriate.

Further, should the Department find that the same conditions that were the basis for certification in TA-W-39,657 persisted beyond April 23, 2004, and that worker separations after April 23, 2004 are attributable to the basis for certification, the Department may extend the certification period. However, if there was a change in circumstance that prevents a causal

nexus between the workers' separation and the basis for certification, then the Department cannot find that the workers' separation is attributable to the basis for certification.

If a production facility closes, the workers at that facility would eventually be separated from that facility, and the Department would determine that there was a causal nexus between the workers' separations and the plant closure. The significance of a plant closure was most recently demonstrated in *Thomson*, where the plant closed and the Department amended the certification to include the shutdown workers' separations. However, because the Weirton facility did not close, there is no such causal nexus between the separations and the events that were the basis for the certification of TA-W-39,657.

The investigation of TA-W-54,455 disclosed that the Weirton facility continued production beyond the certification date of TA-W-39,657. AR 2, 46, 50, 96, SAR 13-14. Accordingly, the facility ceased to suffer from the same economic conditions that were the basis for the certification, and the later worker separations are not attributable to the increased imports that were the basis for the TA-W-39,657 certification. In addition, the evidence found in support of the denial of the certification request in the instant case showed that sales of the subject firm increased in the relevant period, and that there were declining imports or little or no increase in imports during the relevant period. AR 102. This negative determination was published in the **Federal Register** on June 2, 2004 (69 FR 31135). AR 104. A review of the record amply demonstrates that extension of the certification of TA-W-39,657 to cover the workers would be contrary to the Department's policy and practice.

Different Treatment of Separations After April 23, 2004 Than Separations That Occurred On or Prior to April 23, 2004

Workers separated after April 23, 2004 are treated differently from those separated on or prior to April 23, 2004, because the workers separated before April 23, 2004 belong to a separately identifiable worker group.

In the case at hand, the Department issued a routine certification that expired two years from the date of issuance because there was no information in the record to indicate that a shorter certification was appropriate. And, because the Department did not conduct a termination investigation, the certification period was not shortened.

Therefore, the issue is not whether the worker separations on or before April 23, 2004 are attributable to the increased imports that were the basis for certification; the issue is whether or not the worker separations after April 23, 2004 are attributable to the increased imports that were the basis for certification.

The Department must determine whether the events that caused the separations after April 23, 2004 are identical to those that were the basis for the certification. While the certification of workers separated on or before April 23, 2004 was based on increased imports, SAR 18–19, worker separations after April 23, 2004 resulted from ISG's decision not to continue to employ the Weirton production workers when it purchased the operating Weirton plant as part of the May 18, 2004 sale. SAR 13–14. Accordingly, the Department determines that workers separated on May 18, 2004, belong in a worker group that is separately identifiable from the worker group covered by the certification in TA–W–39,657, and that the Department's determination denying amendment of the TA–W–39,657 to include both worker groups is appropriate under the circumstances.

Weirton Different From Previous Cases Where the Department Extended Worker Certifications

Plaintiffs allege that the action taken by the Department in the case at hand is inconsistent with the actions taken in *O/Z–Gedney Co., Division of EGS Electrical Group*, Terrytown, Connecticut, TA–W–38,569 (*O/Z–Gedney*) and *Wiegand Appliance Division, Emerson Electric Company*, Vernon, Alabama, TA–W–39,436 (*Wiegand*).

In *O/Z–Gedney*, the certified workers were engaged in the production of electrical fittings until the facility closed. The amended certification stated that the intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports. The Department amended the certification because there was a causal nexus between the workers' separation and the plant closure that was the result of increased imports. The single worker retained at the subject firm beyond the March 27, 2003 expiration date was engaged in activities related to the close-down process until her termination on March 26, 2004. SAR 20.

In *Wiegand*, the certified workers were engaged in activities related to the production of electric heating elements until the company closed. The amended certification stated that the intent of the

Department's certification is to include all workers of the subject firm who were adversely affected by increased imports. The Department amended the certification because there was a causal nexus between the worker's separation and the plant closure that was the result of increased imports. The workers separated after the July 16, 2003 expiration date were retained to conduct activities related to the closure of the facility. These workers completed the tracking of outstanding customer orders until their termination on July 21, 2003. SAR 21.

In *Thomson*, the amended certification issued by the Department stated that the intent of the certification is to include all workers of the subject firm who were adversely affected by increased imports. The Department stated that there was a causal nexus between the worker's separation and the plant closure. The few workers Thomson continued to employ after the expiration of the certification were retained by the subject firm pursuant to State regulation to engage in decommissioning activities. SAR 24.

As illustrated in the cases discussed above, the Department's amendments were based on findings that increased imports adversely affected the workers separated after the expiration of the certification. The subject firm retained employees past the certification expiration date solely to close down the facility from which the certified workers had been separated based on increased imports of the articles produced at that facility. The Department's treatment of such workers has been consistent and the decision here also is consistent with that practice. The Weirton workers separated after the plant's acquisition by ISG were not engaged in the closedown of that facility, but were actually involved in production and maintenance of the plant.

The Remand Determination Is in Accord With the Remedial Nature of the TAA Statute

In the remand order, the USCIT directs the Department to explain why its determination is in accord with the remedial nature of the Trade Act. The Department respectfully disagrees with the premise of the USCIT's question. While it is true that the Trade Act is remedial in nature, the statute does not authorize the granting of certification, unlimited by time, in every situation involving a sympathetic fact pattern.

Certifications have to end at some time. Our current procedures provide that certifications generally last for two years and are, normally, not terminated

short of that. A generous application of the law is not required.

Conclusion

After reconsideration on remand, I affirm the decision not to amend the certification of TA–W–39,657 to include workers separated from Weirton Steel Corporation, Weirton, West Virginia after April 23, 2004.

Signed at Washington, DC, this 28th day of August 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–20688 Filed 9–5–08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,197]

Dan River, Inc.; Danville Operations; Danville, VA; Notice of Revised Determination on Reconsideration

On July 11, 2008, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on July 21, 2008 (73 FR 42368).

In the request for reconsideration, the petitioner provided new information regarding production at the subject facility. The petitioner stated that workers of the subject facility produced various package labels and packaging materials.

The Department contacted a company official to address this allegation. Based on information provided by the company official, the Department determined that workers of the subject firm were engaged in the production of package labels and packaging material in 2007 and January through April 2008.

The investigation also revealed that the subject firm has shifted production of package labels and packaging material to China, Pakistan and India impacting workers at the Danville plant. The investigation also revealed that the firm increased imports of package labels and packaging material during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for